



MINUTES
SEPTEMBER 20, 2006

Mr. Blaszkas read the legal notice. Mrs. Emminger explained that the applicant has requested a re-subdivision of two pieces of property, which are zoned RA-20. She read from her Staff Report the history of this site: *Pursuant to letter from Associate Planner Dan Leppo addressed to Corporation Counsel Dan Casagrande dated May 22, 1991, during the initial review of the Indian Springs Subdivision, the two lots in question were originally proposed as one parcel labeled Lot 109, upon further review the Planning Commission realized there was an agreement with Gregory Farms Subdivision to extend Tabor Road. Lot 109 was then deleted and replaced with Tabor Road Extension and Lots A and B. Both lots did not meet Zoning Regulations and could not be considered building lots. In a letter dated July 25, 2006, Attorney Marcus stated that the deed conveying Tabor Road (as part of Gregory Farms Subdivision) to the City of Danbury was recorded in Volume 418 at Page 75 of the Danbury Land Records. According to Attorney Marcus, the land records specifically exclude Tabor Road Extension, as shown on Map 3788. The two properties and the land called out as Tabor Road Extension are currently owned by the applicant. Based on this information, Attorney Marcus is requesting to*

Roche Development LLC as Contract Purchaser – Application for eight (8) lot subdivision (15.236 acres) “Cannonball Estates” in the RA-40 Zone – Cannonball Dr. (#E19005) – Subdivision Code #06-08. This application has already received EIC approval. *Public hearing opened 9/6/06 – 35 days will be up 10/11/06.*

Mr. Keller asked if there was anyone to speak in opposition to this application.

Paul Nunes, 108 Miry Brook Rd., said he also does not have a problem with the new houses being built. He said he does have problems now with water and has seen this entire lot flooded. He said there is always water coming from there, often he cannot cut his grass because his yard is so wet. He is concerned is that his yard is going to become one big piece of wetlands. And then he won't be able to add to his house because of that. He asked what does he get in the future if he does have problems, what can he do to get his land back to what it was before this development. Where does he turn to? What are his legal rights? Mr. Manuel said the Commission cannot answer that; all they can do is make sure this doesn't add to the situation.

Now therefore be it resolved that the Planning Commission of the City of Danbury does hereby deny the application by Artel Engineering for a Dunkin Donuts, SE 644, to be located at the corner of Osborne St. and Springside Ave. (Assessor's Lot # J12221) having found that the application as submitted does not meet the additional requirements for the granting of a Special Exception as per Sec. 10.C.4 of the Zoning Regulations based on the following reasons:

1. *The proposal is not designed in a manner which is compatible with the character of the neighborhood:*
 - A. *Based on evidence in the record and on individual experiences of the Planning Commission with the operation of similar facilities as proposed, the intensity of the use is not compatible with the existing neighborhood from which primary access to the site is proposed.*
 - B. *There are no reasonable requirements that could be imposed that would render the proposed use compatible with the residential neighborhood.*
2. *The proposal will create conditions adversely affecting traffic safety and will cause undue traffic congestion:*
 - A. *Pursuant to Sec. 10.D.8.a. of the City of Danbury Zoning Regulations, 'all proposed uses for which a site plan is required shall provide for ingress and egress to the site which does not adversely impact the normal flow of traffic or the normal safe conditions of the roadways'. The Planning Commission has determined, based on evidence in the record and the personal experiences of the Planning Commission, that the proposed roadway improvements to Osborne St. and Springside Ave. may not adequately accommodate the increase in the volume of traffic without a significant decline in traffic safety.*

Mr. Keller then took over reading from this point forward:

- B. *Pursuant to Sec. 10.D.8.b. of the City of Danbury Zoning Regulations, '....may require such reasonable improvements as may be necessary to accommodate traffic increases caused by the proposed development to maintain existing levels of service and traffic safety. Volumes will increase sufficiently to change the character of the neighborhood and the new turning movements cannot, in the Planning Commission's judgment, be accommodated into the existing traffic flows so as not to cause conditions that are unsafe.*
 - i. *According to the Traffic Study submitted by the applicant's traffic engineer, the proposed use expects approximately 400 vehicle trips during morning peak, of which 240 vehicles trips already exist on Osborne St. and 160 trips will be new to the area. The Traffic Study indicates a substantial increase in the traffic movements of the Springside Ave. westbound left and right turn lanes. According to Figures 3 and 6 of the Traffic Study, during the morning peak hour, an increase from 10 vehicular trips to 90 trips for the left turn lane is expected and an increase from 10 vehicular trips to 110 trips for the right turn lane is expected. Furthermore, the Traffic Study indicates a significant increase in the traffic movements of both of the Osborne St. northbound and southbound turn movements onto Springside Ave.. According to Figures 3 and 6 of the Traffic Study, during morning peak hour, an increase from 15 to 110 trips for the northbound right turn and an increase from 5 to 90 trips for southbound left turn is expected.*
 - ii. *Vehicles exiting Dunkin Donuts traveling westbound to Osborne St. must exit at an un-signalized T-intersection. Due to existing and proposed traffic volumes on Osborne Street, left turn movements exiting the site into southbound traffic will prove to be difficult for motorists. Additionally, vehicles attempting a left turn onto Osborne St. will be confronted with three opposing traffic patterns at this intersection; (1) vehicles traveling northbound on Osborne St.(2) vehicles traveling southbound on Osborne St. turning left on to*

Springside Ave. and (3) vehicles traveling southbound on Osborne St. utilizing the proposed bypass lane.

- C. The Planning Commission, based on testimony given by the neighbors and the Commission's personal knowledge of the traffic volumes and movements on Osborne St. and the immediate area, finds that with the substantial increase in new traffic movements at this intersection, the proposed roadway improvements along Osborne St. and Springside Ave. will not result in safe traffic movements for the reasons outlined in #2 above.*
- 3. The use will jeopardize public health and safety.*
- A. Based on the experience of the Planning Commission with similar facilities and existing pedestrian flows in the neighborhood that is supported by testimony in the record, pedestrian traffic in the area is likely to increase and coupled with the increase in volume and conflicting traffic movements may create unsafe pedestrian conditions that may jeopardize public health and safety.*
- 4. Given the conditions and constraints existing on Osborne St. and Springside Ave. peculiar to this site and the proposed use, the Planning Commission can find no reasonable improvements that will ensure full compliance with the provisions of Sec. 10.C.4.a.*

Mr. Keller then asked for discussion and/or comments. Mr. Blaszkowski said traffic safety is one of the most obvious issues here and the Staff did great job describing it. Mr. Keller said this proposal will just be increasing the traffic volumes by so many vehicles. Mr. Urice said that testimony was given by both residents and people who work in this neighborhood that traffic is not now and will not be able to be contained which will be hazardous to the large amount of pedestrian traffic that this area sustains. Mr. Manuel said the traffic safety is definitely an issue and something this big will have a detrimental impact on the entire neighborhood. Mr. Urice made a motion to deny the application per the amended resolution. Mr. Manuel seconded the motion and the motion was passed unanimously by roll call vote with five AYES (from Mr. Deeb, Mr. Keller, Mr. Manuel, Mr. Blaszkowski and Mr. Urice).

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P & A Associates – Application for five (5) lot re-subdivision (10.230 acres) in the RA-80 Zone – 7 Long Ridge Rd. (J19003) – Subdivision Code #06-03. Public hearing closed 8/2/06 – 65 days will be up 10/6/06.

P & A Associates – Request for Waiver to Chap. 4, Secs. B11 & B12 of the Subdivision Regulations in connection with the Application for five (5) lot re-subdivision – 7 Long Ridge Rd. (#J19003) – Subdivision Code #06-03. Public hearing closed 8/2/06 – 65 days will be up 10/6/06.

Mr. Blaszkowski made a motion to table both of these matters until the next meeting. Mr. Deeb seconded the motion and it was passed unanimously.

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Scott Lavelle – Request for Revision to Previously Approved Subdivision in the RA-20 Zone – Parcels A & B/Lot 109, Jackson Drive (#J07113 & #J07120) – Subdivision Code #65-21.

Mrs. Emminger distributed the resolution and said the beginning is the same as the Staff Report. She added that there is one correction that needs to be made regarding when the ZBA variance was approved. Mr. Manuel made a motion to this application per the resolution as

REFERRALS:

Mr. Urice made a motion to table this matter. Mr. Blaszkowski seconded the motion and it was passed unanimously.

The Common Council received a request for consideration of the donation to the City of two parcels located off of Birch Rd. totaling 17.3 acres. One lot has frontage on Birch Rd.. The other lot is an interior lot with no road frontage. It appears these lots are located within the Padanaram Public Water Supply Watershed Protection (PWSW) Zone and contain wetlands. The area is noted as environmentally sensitive on the City Public Water Supply Watershed map, thus potentially affecting or restricting any development on said parcels. The Plan of Conservation & Development (POCD) Land Development Plan Map identifies these parcels as wetlands. Since this land is owned by the Church, it is not currently on the tax rolls. Therefore, its donation to the City appears to have no tax consequences. Additionally, any development potential would be restricted due to on site wetlands and its associated buffer. Based on this information, Mr. Urice made a motion to give this a positive recommendation with the recommendation that it be designated permanent open space. Mr. Manuel seconded the motion and it was passed unanimously.

The Common Council received a request for an update on the status of implementation of a public notice registry as is required pursuant to Public Act 06-80 which will become effective October 1, 2006. The Act requires that all municipalities establish a public notice registry to inform registrants of proposed City sponsored actions involving a change to (1) the Zoning Regulations; (2) a zoning district boundary; (3) the Subdivision Regulations; or (4) an

amendment or change to the POCD. The Planning Dept. is currently preparing forms to be available to the public via hard-copy and the Internet which would allow landowners, electors, and charitable organizations to register for notices of above-referenced City-initiated actions. The Dept. will coordinate with the Permit Center and Data Processing to ensure the Registry is online by the October 1st deadline. Once registrants are on the notification list, the Dept. will notify them of actions pursuant to the timeframes in the Act. Mr. Manuel made a motion to give this a positive recommendation based on the information in the Deputy Planning Director's report. Mr. Blaszkowski seconded the motion and it was passed unanimously.

8-24 Referral/September 6th CC Agenda Item #16 – Request for Conveyance of Land at 2 Garry Knolls (#L13116).

The Common Council received a request for consideration of the conveyance of a .29 acre vacant parcel to the City for future development and use by a local non-profit agency for persons with disabilities. The site is the last building lot on Garry Knolls in the RA-8 zoning district. The road then transitions to Eden Dr.. Adjacent lots to the east and south are zoned RMF-6. Lots across the street to the north and directly west are zoned RA-8. The POCD Land Development Map identifies this site as single-family. Group homes are permitted in all one family dwellings defined by the Zoning Regulations. While the tax implications of a transfer are not clear at this time, it does appear that such a use would be considered conforming in the RA-8 zoning district and would be in conformance with the Plan. Mr. Manuel made a motion to give this a positive recommendation with the condition that the land be accepted with no restrictions on its use other than those imposed by the current Zoning Regulations. Mr. Urice seconded the motion and it was passed unanimously.

8-24 Referral/September 6th CC Agenda Item #20 – Offer for City to Purchase Land at 51A East Lake Rd. (#E06061).

The Common Council received a request to consider purchasing a 2.2 acre site on East Lake Rd. adjacent to City-owned land and the East Lake Reservoir. The lot is within the RA-80 zoning district and is an accessway or rear lot with frontage off of East Lake Rd.. It appears that the lot is within the 250 foot setback of the Public Water Supply Watershed and is noted as environmentally sensitive. Such designation may limit or restrict its development potential. The POCD identifies the expansion of the capacity of the West Lake and Margerie reservoirs as a major improvement need of the public water system. To achieve the expansion, the City would acquire land around the shoreline of the Reservoirs to raise water levels thereby increasing safe yield and capacity. The Plan does not specifically address other land acquisition within the watershed although it is not precluded should “*conditions warrant.*” In the POCD, the site is designated partially wetlands and partially open space on the Land Development Plan Map. While taking private land off the tax rolls is a decision for another body of government, increasing the amount of City owned land adjacent to drinking water reservoirs deserves serious consideration and could be considered the most extreme method of source protection. Mr. Blaszkowski made a motion to give a positive recommendation subject to the approval of the Director of Public Works that such additional land is beneficial in terms of source protection. Mr. Urice seconded the motion and it was passed unanimously.

8-24 Referral/September 6th CC Agenda Item #22 – Request to Purchase Land on Rockwood La. (#B09001).

The Common Council has received a request to purchase a City-owned parcel of land located off of Rockwood Lane. The request is from an adjacent property owner. The 2.0 acre land-locked parcel was obtained by the City in 1982 via the filing of an auction deed. An adjacent landowner requests the Council re-declare the parcel surplus and then proceed to sell the parcel to him. The POCD Land Development Plan Map identifies this site as rural. The Code of Ordinances requires the Council first declare a property surplus and then proceed with its disposition in accordance with the provisions noted. This parcel is land-locked and therefore sale to an abutter is logical. However, such sale must proceed in accordance with the Code. Mr. Urice made a motion to give this a positive recommendation provided the Council declares this parcel as surplus and its disposition is pursuant to the provisions of the Code. Mr. Blaszk seconded the motion and it was passed unanimously.

8-24 Referral/September 6th CC Agenda Item #25 – Request for Sewer Extension at 141 Westville Ave. Ext. (#F14090).

The Common Council has received an application for the extension of municipal sewer to serve the above-referenced lot. The lot is .32 acres in size and is located in the RA-40 zoning district. It is the second lot on the east side of Westville Ave. Ext. after it crosses over I-84. Currently, sanitary sewer service terminates at the Westville Ave. Ext. and Fairlawn Ave. intersection. The POCD indicates this lot is within an area proposed to be served by public sewer service. Mr. Urice made a motion to give this a positive recommendation provided the extension meets the following requirements: (1) approval of the design, benefit assessment determination and financing provisions, construction, installation and inspection requirements by both the Engineering and Public Utilities Depts., and (2) the submission of all required legal documents in form and content acceptable to Corporation Counsel. Mr. Manuel seconded the motion and it was passed unanimously.

8-24 Referral/September 6th CC Agenda Item #26 – Request for Sewer Extension at 7 Great Pasture Rd. (#L16001).

The Common Council received a request for the extension of sewer to serve the above-referenced site on Great Pasture Rd.. The 5.0 acre site is zoned IL-40. There is an existing single family dwelling on the lot. In accordance with the POCD, the site is within an area proposed to be served by the public sewer. An existing sewer main is located within Great Pasture Rd. and Shelter Rock La.. Mr. Urice made a motion to give this a positive recommendation provided the extension meets the following requirements: (1) approval of the design, benefit assessment determination and financing provisions, construction, installation and inspection requirements by both the Engineering and Public Utilities Depts., and (2) the submission of all required legal documents in form and content acceptable to Corporation Counsel. Mr. Blaszk seconded the motion and it was passed unanimously.

8-24 Referral/September 6th CC Agenda Item #27 – Request for Water Extension at 28 Division St. (#H15277). *This item should be withdrawn since the Special Exception application has been withdrawn.*

The Common Council received a request for the extension of public water to serve a proposed multi-family development located at 28 Division St.. Since this request was submitted, the applicant's plans for this site have been withdrawn from the Planning Commission. We understand the applicant will withdraw its water extension request from the Council. Therefore, there is no required action on this request. Mr. Urice made a motion to not make

any recommendation on this matter because the applicant has withdrawn the site plan and is no longer pursuing the project. Mr. Manuel seconded the motion and it was passed unanimously.

8-24 Referral/September 6th CC Agenda Item #28 – Request for Water & Sewer Extension at Reynolds Rd. (#H08108, #H08003, #H08004, #H08005 & #H08006).

The Common Council has received a request for the extension of water and sewer service within Reynolds Rd.. The application indicates the utilities are to serve several lots on the west side of Reynolds Rd. and that the intended use of said lots is for single-family residential development. The POCD indicates this area is intended to be served by municipal sewer service and that it is within an area served by the Cornell Hills Assoc. water system. The City is intending to serve this area of Reynolds Rd. with both public water and sewer service. Engineering plans have been prepared for the Cornell Water and Sewer District and the benefit assessment process is well underway. Mrs. Emminger said this applicant has obtained a variance to the Zoning Regulations and is reconfiguring four non-conforming lots into three conforming lots. Mr. Manuel made a motion to give this a positive recommendation provided the extensions meets the following requirements: (1) approval of the design, benefit assessment determination and financing provisions, construction, installation and inspection requirements by both the Engineering and Public Utilities Depts., and (2) the submission of all required legal documents in form and content acceptable to Corporation Counsel. Mr. Blaszk seconded the motion and it was passed unanimously.

8-24 Referral/September 6th CC Agenda Item # 29 – Request for Sewer & Water Extension at Fairlawn Ave. *This item is a repeat of an item acted on at the 8/16/06 meeting.*

This item was addressed at the Planning Commission meeting of August 16th and correspondence sent to the Mayor and Common Council on September 8, 2006. Mr. Urice made a motion to resend the same recommendation as was previously sent to the Council. Mr. Blaszk seconded the motion and it was passed unanimously.

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Mr. Keller announced that the following matter which was scheduled for public hearing on October 18, 2006 has been withdrawn: *Codfish Hill Construction LLC – Application for Special Exception for Housing Incentive Option in the RMF-4 Zone. This is an Affordable Housing Application. – “Caroline Court”, 28 Division St. (#H15277) – SE #649. Public hearing scheduled for October 18, 2006.*

There was nothing under Other Matters, two Cease & Desist Orders under Correspondence and six requests for Floodplain Permits and a listing of the public hearings scheduled for October 18, 2006 and November 1, 2006.

At 10:00 PM, Mr. Manuel made a motion to adjourn. The motion was seconded by Mr. Urice and passed unanimously.